

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/645,153	Confirmation No.	7182
Applicant	:	Michael Delaney, et al.		
Filed	:	08/21/2003		
TC/A.U.	:	3714		
Examiner	:	Omkar Deodhar		
Docket No.	:	83336.1535		
Customer No.	:	55136		

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

The following Appeal Brief is submitted pursuant to the Notice of Appeal dated February 23, 2011 for consideration by the Board of Appeals and Interferences. 37 C.F.R. § 41.37. This brief is timely filed.

(i) REAL PARTY IN INTEREST

The real party in interest is Bally Gaming, Inc. a member of a group of companies held by Bally Technologies, Inc., a publically traded company under the NYSE ticker symbol BYL.

(ii) RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences, or judicial proceedings known to the appellants, the appellants' legal representative, or the assignee which may

be related to, directly affect, or be directly affected by, or have a bearing on the Board's decision in this pending appeal.

(iii) STATUS OF CLAIMS

Claims 1-15 are pending and have been rejected.

Claims 1-15 are now being appealed.

(iv) STATUS OF AMENDMENTS

All amendments during prosecution have been entered. No amendments or other actions remain unaddressed.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1:

1. A gaming system, comprising:

a central server configured to generate game results using fixed-pools of elements (*p. 10, ll. 5-8; Fig. 3*) derived from a non-fixed-pool slot machine game (*p. 15, l. 15-p. 16, l. 26*), each element corresponding to a single game play result determined prior to base and bonus game play and divided into a base game play result and a bonus game play result (*p. 16, ll. 13-26*);

a player terminal in operable communication with the central server (*p. 6, l. 8-9, Fig. 3*), configured to send game play requests to the central server and receive game play results from the central server; (*p. 12, ll. 7-10*) and

the player terminal further configured to determine a base game play result and a bonus game play result from a single game play result received from the central server, to reverse-map the base game play result into a display such that the display simulates the non-fixed-pool slot machine game by showing game indicia having a value corresponding to the base game play result (*p. 13, ll. 1-6*), and further shows bonus game indicia, different from the base game play display, having a value corresponding to the bonus game play result, (*p. 13, l. 12- p. 14, l.*

6) wherein the single game play result is a fixed sum that is awarded to the player (p. 16, ll. 24-26).

Independent Claim 6:

6. A method of gaming on a gaming system, the method comprising:
- enabling a fixed pool of game results (p. 10, ll. 5-8; Fig. 3) derived from a non-fixed-pool slot machine game (p. 15, l. 15-p. 16, l. 26), a game result being selectable upon a request from a player terminal (p. 12, ll. 7-10);
 - selecting a game play result after receiving the game result request from a player terminal, wherein the game play result represents a fixed sum award determined prior to base and bonus game play and having a base game play result and a bonus game play amount; (p. 16, ll. 13-26)
 - sending the game play result to the player terminal; (p. 3, l. 8)
 - receiving the game play result at the player terminal; (Fig. 4, 400)
 - determining a base game play result and a bonus game play amount from the game play result; (p. 16, ll. 13-26) and
 - simulating the non-fixed-pool slot machine game by: (Fig. 4; pp. 12-34)
 - awarding the base game play result; (p. 13, ll. 1-6)
 - starting a bonus game; (p. 13, l. 12)
 - enabling play of the bonus game; and (p. 13, l. 12- p. 14, l. 6)
 - awarding the bonus game play amount. (p. 16, ll. 24-26)

Independent Claim 11:

11. A method of play in a gaming system, the method comprising:
- receiving a wager on a game at a player terminal; (*wagering is inherent in gaming machines that accept monetary input for betting*, p. 7, ll. 16-18)
 - generating a game result request; (p. 12, ll. 7-10)
 - selecting a game result from a fixed pool of game results (p. 10, ll. 5-8; Fig. 3) derived from a non-fixed-pool slot machine game, (p. 15, l. 15-p. 16, l. 26; "mimicked") wherein the game play result represents a fixed sum award

determined prior to base and bonus game play (*p. 12, l. 7*) and having a base game play result and a bonus game amount; (*p. 13, l.12- p. 14, l. 6*)

determining the base game result and the bonus game amount from the selected game result; (*p. 13, ll.1-6*) and

simulating the non-fixed pool slot machine game by: (*Fig. 4; pp. 12-34*)

playing the game and awarding the base game result; (*p. 13, ll.1-6*)

starting a bonus game; (*p. 13, l. 12*)

enabling play of the bonus game; and (*p. 13, l.12- p. 14, l. 6*)

awarding the bonus game amount. (*p. 16, ll. 24-26*)

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-15 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

(vii) ARGUMENT

For the sake of brevity, the rejections of independent claims 1, 6 and 11 are discussed in detail on the understanding that the dependent claims include additional features that, in combination with those of the independent claims, provide further, separate and independent bases for patentability.

Claims 2-5 depend from claim 1, claims 7-10 depend from claim 6 and claims 12-15 depend from claim 11. These dependent claims have not otherwise been rejected. Appellants submit that these claims will stand or fall with their respective independent claims 1, 6 and 11.

To summarize the invention, page 4, lines 1-3, of the Specification recite, "...there is a need to find a way to provide players of fixed pool gaming machines with features found in Nevada-style gaming, especially game bonus rounds or bonuses."

The Examiner appeared to understand the concept in his summarization of a telephonic interview of May 27, 2009: "Applicant explained that their invention seeks to provide a Class

III gaming experience through a Class II gaming machine.” (*Interview Summary*, 6/4/2009), yet the present Office Action of 11/24/10 recites:

“Examiner reviewed the Specification but could not find adequate support for claim limitation requiring fixed pools of elements derived from a non-fixed pool game. In fact, the section Applicant points to begins under the heading “Pool generation or Protocol Use for Fixed-Pool Games With Bonus.” (Specification, Page 15.) Furthermore, the subsequent disclosure is only of base and bonus games mimicked in jurisdictions with fixed-pool game using single pools. (Specification, Page 16.) Moreover, Applicant’s Background discloses desirability for games based on fixed pools and not non-fixed pools. (Specification, Page 2.)” (*Office Action*, page 2)

In the telephonic interview and in the last two Office Action responses, the Appellants have called the Examiner’s attention to the differences between Class II fixed pool and Class III style (Nevada-style) games called out on page 2, lines 20-22, of the Specification, which clearly equate the terms “Nevada-style” and “Class III” and distinguishes such games from Class II “fixed pool games.”

In the above passages from the Office Action, the Examiner has stated “the subsequent disclosure is *only* of base and bonus games mimicked in jurisdictions with fixed-pool game using single pools”, apparently without fully understanding that “*non-fixed-pool* base and bonus games mimicked in jurisdictions with fixed-pool game using single pools” is precisely the invention being claimed. The implementation of a Class II, fixed-pool, game modeled on a Class III, non fixed-pool, game is clearly enabled in over twenty pages of the Specification and its supporting figures. In particular, please see Figure 4 and pages 12-34 of the Specification.

Given the above, the Appellants respectfully solicit reversal of the rejection of claims 1-15 under 35 U.S.C. §112, first paragraph.

CONCLUSION AND RELIEF

For the reasons recited above, the Appellants have demonstrated that the claims of this appeal are enabled by the Specification and its Figures. In conclusion, we respectfully request that the Board overturn the rejections of claims 1-15 and hold claims 1-15 allowable.

Respectfully submitted,

Date: April 19, 2011

/mhein/
Marvin A. Hein
Reg. No. 63,376
Bally Technologies
6601 South Bermuda Road
Las Vegas, NV 89119
Tel 702-584-7209
Fax 702-584-7990

(viii) CLAIMS APPENDIX

The claims involved in this Appeal are as follows:

1. (Rejected; appealed) A gaming system, comprising:
 - a central server configured to generate game results using fixed-pools of elements derived from a non-fixed-pool slot machine game, each element corresponding to a single game play result determined prior to base and bonus game play and divided into a base game play result and a bonus game play result;
 - a player terminal in operable communication with the central server, configured to send game play requests to the central server and receive game play results from the central server; and
 - the player terminal further configured to determine a base game play result and a bonus game play result from a single game play result received from the central server, to reverse-map the base game play result into a display such that the display simulates the non-fixed-pool slot machine game by showing game indicia having a value corresponding to the base game play result, and further shows bonus game indicia, different from the base game play display, having a value corresponding to the bonus game play result, wherein the single game play result is a fixed sum that is awarded to the player.
2. (Rejected; appealed) The gaming system of claim 1, wherein the bonus game indicia further comprises a plurality of indicia.
3. (Rejected; appealed) The gaming system of claim 2, wherein the plurality of indicia is selectable, and where the bonus result is divided into a set of partial win results that, in total, are an amount equal to the bonus result, and where the partial win results are awarded one at a time as a result of a selectable indicium being selected, until all of the partial win results are awarded.
4. (Rejected; appealed) The gaming system of claim 1, wherein the game play result further includes an indicator recognizable by the player terminal, the indicator indicating that the game play result comprises a base game play result and a bonus game play result.

5. (Rejected; appealed) The gaming system of claim 4, wherein the bonus game play amount is calculated by subtracting a known base game amount from the game play result.

6. (Rejected; appealed) A method of gaming on a gaming system, the method comprising:

- enabling a fixed pool of game results derived from a non-fixed-pool slot machine game, a game result being selectable upon a request from a player terminal;

- selecting a game play result after receiving the game result request from a player terminal, wherein the game play result represents a fixed sum award determined prior to base and bonus game play and having a base game play result and a bonus game play amount;

- sending the game play result to the player terminal;

- receiving the game play result at the player terminal;

- determining a base game play result and a bonus game play amount from the game play result; and

- simulating the non-fixed-pool slot machine game by:

- awarding the base game play result;

- starting a bonus game;

- enabling play of the bonus game; and

- awarding the bonus game play amount.

7. (Rejected; appealed) The method of claim 6, wherein the bonus game comprises a plurality of indicia.

8. (Rejected; appealed) The method of claim 7, wherein the plurality of indicia is selectable, and wherein the bonus game play result is divided into a set of partial win results that, in total, are an amount equal to said bonus game play result, and wherein the partial win results are awarded one at a time as a result of a selectable indicium being selected, until all of said partial win results are awarded.

9. (Rejected; appealed) The method of claim 6, further comprising:

including, in the game play result, an indicator recognizable by the player terminal, the indicator indicating that the game play result comprises a base game play result and a bonus game play result.

10. (Rejected; appealed) The method of claim 9, further comprising:
calculating the bonus game play amount by subtracting a base game amount from the game play result.

11. (Rejected; appealed) A method of play in a gaming system, the method comprising:
receiving a wager on a game at a player terminal;
generating a game result request;
selecting a game result from a fixed pool of game results derived from a non-fixed-pool slot machine game, wherein the game play result represents a fixed sum award determined prior to base and bonus game play and having a base game play result and a bonus game amount;
determining the base game result and the bonus game amount from the selected game result; and
simulating the non-fixed pool slot machine game by:
playing the game and awarding the base game result;
starting a bonus game;
enabling play of the bonus game; and
awarding the bonus game amount.

12. (Rejected; appealed) The method of claim 11, wherein the bonus game comprises a plurality of indicia.

13. (Rejected; appealed) The method of claim 12, further comprising:
dividing the bonus game play amount into a set of partial win results that, in total, are an amount equal to the bonus game result;
selecting bonus game indicia;
awarding one of the partial win results; and

repeating the selecting and awarding until all of the partial win amounts are awarded.

14. (Rejected; appealed) The method of claim 11, further comprising:
recognizing, in the game result, an indicator indicating that the game result comprises a base game result and a bonus game result.
15. (Rejected; appealed) The method of claim 14, further comprising:
calculating the bonus game result by subtracting a base game result from the game result.

(ix) EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title. No other evidence has been entered by the Examiner and relied upon by Appellants in the appeal.

(x) RELATED PROCEEDINGS APPENDIX

As there are no prior or pending appeals, interferences, or judicial proceedings known to the appellants, the appellants' legal representative, or the assignee which may be related to, directly affect, or be directly affected by, or have a bearing on the Board's decision in this pending appeal (pursuant to 37 CFR § 41.37(c)(1)(ii)), there are no decisions rendered by a court or the Board in any proceedings to include herein.